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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

CHESTER BROADCASTING  
COMPANY, INC.

For Renewal of License  
for Station WGCD(AM),  
Chester, South Carolina

) MM DOCKET No. 96-169  
)  
)

) File No. BR-950726YG  
)  
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To: Administrative Law Judge John M. Frysiak

MOTION FOR SUMMARY DECISION

Chester Broadcasting Company, Inc. ("CBC"), by its attorney, hereby moves pursuant to Section 1.251 of the Commission's Rules for summary decision in its favor of all of the issues that were specified in the *Hearing Designation Order* (DA 96-11251) released August 7, 1996. As will be shown herein, there is no dispute as to any material fact relevant to the resolution of the issues designated for hearing, and grant of this Motion would be consistent with, and is required by, the Commission's recent decision in *Southwestern Broadcasting Corporation*, FCC 96-443 released November 15, 1996.

**Issue 1: To Determine Whether Chester Broadcasting Company, Inc. Has the Capability and Intent to Expeditiously [sic] Resume the Broadcast Operations of WGCD(AM) Consistent with the Commission's Rules.**

Attached hereto is a Declaration under Penalty of Perjury from the President of CBC, William C. Stone, which establishes that WGCD resumed regular broadcast operations with its licensed facilities

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on January 4, 1997, and is operating during more hours per week than it is required to operate in order to comply with the minimum operating schedule specified in Section 73.1740(a) of the Commission's rules. Mr. Stone's declaration further establishes that CBC has entered into a Time Brokerage Agreement with a proposed assignee of WGCD's license, Frank Neely, which assures that WGCD will have sufficient revenues, and a source of programming, to remain on the air on a schedule that meets or exceeds the requirements of Section 73.1740 until such time as the sale of WGCD is approved by the FCC and is consummated.

As WGCD has returned to the air and is operating during more hours than it is required to operate pursuant to Section 73.1740(a), and as the Time Brokerage Agreement between CBC and Frank Neely ensures that the station will have both the programming and the financing necessary to continue to operate during more hours per week than it is required to operate, Issue 1 must be resolved in favor of CBC.

**Issue 2: To Determine Whether Chester Broadcasting Company, Inc. has violated Sections 73.1740 and/or 73.1750 of the Commission's Rules.**

Section 73.1740 requires stations which are unable to maintain the minimum operating schedule specified in that section to request and to file a request for authority not to comply with the minimum operating schedule within thirty days of first not being able to meet the schedule. The HDO reflects that WGCD was authorized by

the Commission to remain silent through March 11, 1996, and that prior to the expiration of its last silence authority, WGCD requested an extension of that authority, which request was deferred pending a decision in this case. Accordingly, it must be found that WGCD has not been off the air without authority and, thus, has not violated Section 73.1740.


Section 73.1750 deals with the discontinuance of operations. It is clear from the record that CBC has at no time discontinued operations within the meaning of Section 73.1750, but rather, CBC had merely suspended operations of WGCD, with Commission knowledge and consent, while it sought a buyer for the station. As it is clear that CBC has at all times intended to sell WGCD to a qualified buyer who would return the station to the air, it must be concluded that CBC has not "discontinued" the operation of WGCD within the meaning of Section 73.1750.

**Issue 3: To Determine in light of the evidence adduced pursuant to [Issue 1 and 2], whether Chester Broadcasting Company, Inc. is qualified to be and remain the licensee of WGCD(AM).**

It is clear from the evidence submitted with this Motion that CBC not only has the intent and capability to return WGCD to the air, but has actually done so, and that CBC is fully qualified to be and remain the licensee of the station.

WHEREFORE, for the foregoing reasons, Chester Broadcasting Company, Inc. submits that all of the issues in this proceeding should be resolved in its favor by summary decision.

Respectfully submitted,

  
David Tillotson  
4606 Charleston Terrace, NW  
Washington, DC 20007  
(202) 625-6241

January 10, 1997

**DECLARATION OF WILLIAM C. STONE, JR.**

William C. Stone, Jr., states under penalty of perjury as follows:

1. I am president of Chester Broadcasting Company, Inc. ("CBC"), licensee of Station WGCD(AM), Chester, South Carolina.
2. On January 4, 1997, Station WGCD resumed regular broadcast operations with its licensed facilities and is operating, and will continue to operate, on a schedule that meets or exceeds the "minimum operating schedule" specified in Section 73.1740 of the Commission's rules.
3. CBC has entered into a Time Brokerage Agreement with a prospective buyer of Station WGCD, Frank Neely, which assures that WGCD will have sufficient revenue, and programming, to remain on the air on a schedule that meets or exceeds the requirements of Section 73.1740 until such time as the proposed sale is consummated.

  
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William C. Stone, Jr.

Date: January 8, 1997

CERTIFICATE OF SERVICE

I, David Tillotson, do hereby certify that a copy of the foregoing **Motion for Summary Decision** has been sent this 10th day of January, 1997, via first class United States mail, postage pre-paid, to:

The Honorable John M. Frysiak  
Federal Communications Commission  
Office of Administrative Law Judges  
2000 L Street, Room 223  
Washington, DC 20554

James Shook, Esq.  
Sharon Donahue, Esq.  
Federal Communications Commission  
Mass Media Bureau, Hearing Division  
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David Tillotson